

SECOND REGULAR SESSION

SENATE BILL NO. 1376

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR GIBBONS.

Read 1st time March 1, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4675S.03I

AN ACT

To repeal sections 578.405, 578.407, 578.409, and 578.412, RSMo, and to enact in lieu thereof four new sections relating to animal research and production facilities, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 578.405, 578.407, 578.409, and 578.412, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 578.405, 578.407, 578.409, and 578.412, to read as follows:

578.405. 1. Sections 578.405 to 578.412 shall be known and may be cited as "The Animal Research and Production Facilities Protection Act".

2. As used in sections 578.405 to 578.412, the following terms mean:

(1) "Animal", every living creature, domestic or wild, but not including Homo sapiens;

(2) "Animal facility", any facility, **animal farming operation, business, or organization** engaging in legal scientific research or agricultural production or involving the use of animals, including any organization with a primary purpose of representing livestock production or processing, any organization with a primary purpose of promoting or marketing livestock or livestock products, any person licensed to practice veterinary medicine, any organization involved in the production of pet food or pet food research, and any organization with a primary purpose of representing any such person, organization, or institution. [The term] **Animal facility** shall include the owner, operator, and employees of any animal facility [and], the offices [and], barns, buildings, or other structures, the vehicles of any such persons while engaged in duties related to the animal facility, and any premises, **private or public property**, where animals are located, **including but not limited to the barns, buildings, or areas where animals are pastured, housed, or otherwise quartered;**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

(3) **"Damaging the enterprise conducted at an animal facility", to willfully cause egregious harm to the physical property or the business of an animal facility;**

(4) "Director", the director of the department of agriculture.

578.407. 1. No person shall:

(1) Release[,] or steal **an animal from an animal facility**, or otherwise intentionally cause the death, injury, or loss of any animal at or from an animal facility and not authorized by that facility;

(2) Damage, vandalize, or steal any property in or on an animal facility;

(3) Obtain access **or employment** to an animal facility by false pretenses for the purpose of performing acts not authorized by the facility;

(4) **By unauthorized means, knowingly** enter or otherwise interfere with **the operation of** an animal facility [with the intent] to destroy, [alter, duplicate or obtain] **damage, or obtain** unauthorized possession of **equipment, animals, records, [data] documents, previously recorded images, or existing material**[, equipment, or animals] **for the purpose of damaging the enterprise conducted at the animal facility;**

(5) **By unauthorized means, knowingly** [obtain, by theft or deception, control over] **enter or otherwise interfere with the operation of an animal facility to duplicate or alter** records, [data] **documents, previously recorded images, or existing material**[, equipment, or animals of any animal facility for the purpose of depriving the rightful owner or animal facility of the records, material, data, equipment, or animals, or for the purpose of concealing, abandoning, or destroying such records, material, data, equipment, or animals] **for the purpose of damaging the enterprise conducted at the animal facility;**

(6) [Enter or remain on an animal facility with the intent to commit an act prohibited by this section] **Knowingly obtain unauthorized possession of records, documents, previously produced images of the facility, existing material, equipment, or animals, by theft, trespass, or false pretenses for the purpose of damaging the enterprise conducted at an animal facility;**

(7) **By unauthorized means, knowingly duplicate or alter, records, material, or documents for the purpose of damaging the enterprise conducted at an animal facility;**

(8) **By unauthorized means, knowingly conceal, abandon, damage, or destroy equipment, animals, records, material, documents, or the structures housing the animal facility for the purpose of damaging the enterprise conducted at an animal facility;**

(9) **Enter or remain on an animal facility with the intent to commit an act prohibited by this section; or**

(10) **Intentionally or knowingly release or introduce any pathogen or disease**

in or near an animal facility that has the potential to cause disease in any animal at the animal facility or that otherwise threatens human health or biosecurity at the animal facility.

2. Nothing in this section shall apply to law enforcement, local, state, and federal regulatory personnel, or animal control officers or their agents.

578.409. 1. Any person who violates **subdivisions (1) to (9) of section 578.407:**

(1) Shall be guilty of a misdemeanor for each such violation unless the loss, theft, or damage to the animal facility exceeds three hundred dollars in value;

(2) Shall be guilty of a class D felony if the loss, theft, or damage to the animal facility property exceeds [three hundred dollars in value but does not exceed] ten thousand dollars in value;

(3) Shall be guilty of a class C felony if the loss, theft, or damage to the animal facility property exceeds ten thousand dollars in value but does not exceed one hundred thousand dollars in value;

(4) Shall be guilty of a class B felony if the loss, theft, or damage to the animal facility exceeds one hundred thousand dollars in value.

2. Any person who violates subdivision (10) of section 578.407:

(1) **Shall be guilty of a class C felony if the loss, theft, or damage to the animal facility property is equal to or less than the one hundred thousand dollars in value;**

(2) **Shall be guilty of a class B felony if the loss, theft, or damage to the animal facility exceeds one hundred thousand dollars in value.**

3. Any person who intentionally agrees with another person to violate section 578.407 and commits an act in furtherance of such violation shall be guilty of the same class of violation as provided in [subsection 1] subsections 1 and 2 of this section.

[3.] **4. In the determination of the value of the loss, theft, or damage to an animal facility, the court shall conduct a hearing to determine the reasonable cost of replacement of materials, data, equipment, animals, and records that were damaged, destroyed, lost, or cannot be returned, as well as the reasonable cost of lost production funds and repeating experimentation that may have been disrupted or invalidated as a result of the violation of section 578.407.**

[4.] **5. Any persons found guilty of a violation of section 578.407 shall be ordered by the court to make restitution, jointly and severally, to the owner, operator, or both, of the animal facility, in the full amount of the reasonable cost as determined under subsection [3] 4 of this section.**

[5.] **6. Any person who has been damaged by a violation of section 578.407 may recover all actual and consequential damages, punitive damages, and court costs, including reasonable attorneys' fees, from the person causing such damage.**

[6.] 7. Nothing in sections 578.405 to 578.412 shall preclude any animal facility injured in its business or property by a violation of section 578.407 from seeking appropriate relief under any other provision of law or remedy including the issuance of an injunction against any person who violates section 578.407, **including any relief authorized under subsection 6 of this section.** The owner or operator of the animal facility may petition the court to permanently enjoin such persons from violating sections 578.405 to 578.412 and the court shall provide such relief.

578.412. 1. The director shall have the authority to investigate any alleged violation of sections 578.405 to 578.412, along with any other law enforcement agency, and may [take any action within the director's authority necessary for the enforcement of sections 578.405 to 578.412] **initiate a civil action in the circuit court of the county where the violation occurred.** The attorney general, the highway patrol, and other law enforcement officials shall provide assistance required in the conduct of an investigation.

2. The director may promulgate rules and regulations necessary for the enforcement of sections 578.405 to 578.412. No rule or portion of a rule promulgated under the authority of sections 578.405 to 578.412 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

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